

Justice Health NSW Policy

Primary Agency for Forensic Patients in Custody (Adults)

Issue Date: 01 August 2024

Primary Agency for Forensic Patients in Custody (Adults)

Policy Number 1.192

Policy Function Continuum of Care

Issue Date 01 August 2024

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Risk Rating High

Summary This policy establishes a framework for allocating primary agency responsibility for adult forensic patients in custody, especially where there is uncertainty regarding the primary presenting problem.

Responsible Officer General Manager, Forensic Mental Health

Applies to

- ☐ Administration Centres
- ☐ Community Sites and programs
- ☒ Health Centres - Adult Correctional Centres or Police Cells
- ☐ Health Centres - Youth Justice Centres
- ☒ Long Bay Hospital
- ☐ Forensic Hospital

CM Reference POLJH/1192

Change summary Role title changes updated and policy content re-written for clarity. Added new participants to the case conference to determine lead agency.

Authorised by Chair, Policy Steering Committee

Revision History

#	Issue Date	Number and Name	Change Summary
1	Aug 2024	1.192 Primary Agency for Forensic Patients in Custody (Adults)	Role title changes updated and policy content re-written for clarity. Added roles to the case conference to determine lead agency.
2	Jun 2021	1.192 Primary Agency for Forensic Patients in Custody (Adults)	Role and responsibility delegation amended since changes in LBH and CMH management
3	Mar 20217	1.192 <i>Primary Agency for Forensic Patients in Custody (Adults)</i>	Minor grammatical changes
4	Jul 2015	1.192 Primary Agency for Forensic Patients in Custody (Adults)	New Policy
5			

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2. Preface

Forensic patients detained in correctional centres are people who are experiencing a mental illness and/or have some other form of mental impairment or cognitive impairment and who have:

- been accused of committing a crime and refused bail after having been found unfit to be tried, or
- been found unfit to be tried and given a 'limiting term' after a special hearing, or
- been found 'act proven but not criminally responsible' (APNCR) after a trial or special hearing, and detained in a custody.

Forensic patients require to be allocated a primary agency, Justice Health and Forensic Mental Health Network (Justice Health NSW) or Corrective Services NSW (CSNSW) to act as provider of services, including case management, provision of reports and transfer of care planning. Justice Health NSW assume this responsibility where the primary presenting problem is a mental health impairment and CSNSW Specific Needs (SN), where the primary presenting problem is cognitive impairment.

3. Procedure Content

3.1 Roles and Responsibilities

Clinical Director Custodial Mental Health (CDCMH)

The CDCMH is responsible for:

- implementing this policy for all forensic patients in custody;
- ensuring that all forensic patients are allocated to a primary agency;
- when the primary presenting problem cannot be delineated, participate or nominate a delegate to attend a case conference with the State-wide Manager Specific Needs CSNSW (SMSN CSNSW) to achieve consensus; and
- informing the Forensic Mental Health System Manager (FMHSM) of the primary agency allocated to forensic patients.

Forensic Mental Health System Manager (FMHSM)

The FMHSM is responsible for:

- receiving notification from the Mental Health Review Tribunal (the Tribunal), when aware, that a forensic patient has been received into CSNSW custody;
- notifying the CDCMH of new forensic patients;
- ensuring that the "Risk/Forensic Patient" alert is entered on the Patient Administration System (PAS), with the comment reading either
 - CSNSW primary agency
 - JHFMHN primary agency[This Alert will automatically be transferred to the Offender Integrated Management System (OIMS) or, in the event that a forensic patient is found fit to be tried, removing the alert]; and
- advising the Tribunal of the decision regarding the primary agency for a forensic patient once this has been decided.

Recovery and Reintegration Clinical Nurse Consultant (CNC)

The Recovery and Reintegration CNC is responsible for:

- Receive notification of primary agency of forensic patients with mental illness.
- the case manager of forensic patients with mental illness except for those under OPMHS .

For responsibilities of treating psychiatrist and Custodial Mental Health Nursing staff, refer to [6014 Management of Forensic Patients in Correctional Centres](#).

State-wide Manager Specific Needs CSNSW (SMSN CSNSW)

The State-wide Manager Specific Needs CSNSW (SMSN CSNSW) is responsible for:

- when the primary presenting problem cannot be delineated, participate or nominate a delegate to attend the case conference with the CD CMH to achieve consensus; and
- informing Metropolitan Regional Manager & Forensic Liaison Officer of the decision made by the Case Conference regarding the primary agency.
- notify the Tribunal when CSNSW is determined as the primary agency.

Metropolitan Regional Manager & Forensic Liaison Officer

The Metropolitan Regional Manager & Forensic Liaison Officer CSNSW is responsible for:

- notifying the SMSN CSNSW of any new forensic patients entering custody; ensuring placement of the forensic patient in accordance with the order; and
- maintaining a register in CSNSW of the primary agency for each forensic patient

3.2 Mandatory Requirements

3.2.1 All staff must operate within the legislative framework mandated by the:

- [Health Records and Information Privacy Act 2002](#)
- [Mental Health Act 2007](#)
- [Mental Health Regulation 2019](#)
- [Mental Health and Cognitive Impairment Forensic Provisions Act 2020](#)
- [Mental Health and Cognitive Impairment Forensic Provisions Regulation 2021](#)
- [Crimes \(Administration of Sentences\) Act 1999](#)
- Related Justice Health NSW and NSW Ministry of Health policy and procedure (as outlined in section 5 Legislation and Related Documents) as well as related CSNSW policy and procedure (as detailed in the Offender Classification and Case Management Policy and Procedure Manual, Operations Procedures Manual and Sentence Administration Procedures for Forensic and Correctional Patients).

3.3 Allocation of Primary Agency Responsibility

Initial notification

3.3.1 Forensic patients are generally identified within custody through the following ways:

- a) Receive notification from the Tribunal via the FMHSM,
- b) Receive notification from the Court via the Metropolitan Regional Manager & Forensic Liaison Officer via the FMHSM, or
- c) Identification at reception or assessment.

3.3.2 On receiving notification, the FMHSM must send an email notifying the CD CMH, Recovery and Reintegration Clinical Nurse Consultant (CNC), OPMHS CNC, SMSN CSNSW, local nurse managers and nurse unit managers of a forensic patient.

3.3.3 Where a forensic patient is identified through the reception screening process, the reception nurse must alert their line manager who must email the FMHSM of the forensic patient.

Allocation of primary agency

3.3.4 Once the Clinical Director, Custodial Mental Health is aware of a forensic patient in custody they must liaise with the SMSN CSNSW to review court documents, case history and other relevant documents to determine the primary agency to manage the care of the forensic patient.

- 3.3.5 The CD CMH and SMSN CSNSW must email the FMHSM via [REDACTED] and Metropolitan Regional Manager & Forensic Liaison Officer outlining the determination of the primary agency of the forensic patient.
- 3.3.6 The FMHSM must notify the Tribunal when Justice Health NSW is determined as the primary agency and the Metropolitan Regional Manager & Forensic Liaison Officer must advise the Tribunal when the primary agency is CSNSW.
- 3.3.7 The FMHSM must send an email notifying the forensic patient is under the Justice Health NSW lead agency to the, Recovery and Reintegration CNC or Older Persons Mental Health Service Clinical Nurse Consultant (OPMHS CNC), local nurse managers and nurse unit managers.

In the event that Primary Agency is not initially clear

- 3.3.8 Where the primary agency cannot be determined between the CD CMH and SMSN CSNSW, they must convene a case conference with relevant stakeholders to determine the primary agency.
- 3.3.9 The case conference provides an opportunity to collaborate and discuss the best care pathway for the forensic patient.
- 3.3.10 The case conference must be chaired by the CD CMH or delegate and be guided by the following information.
- Patient's history;
 - Patients care needs;
 - Court and Tribunal Reports;
 - Accepted guidelines from sources such as the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and the International Classification of Diseases, ICD-10; and
 - Provided current assessments completed in custody by Justice health NSW and CSNSW.
- 3.3.11 The members of the case conference may elect to defer a decision, for further assessments to take place by either or both agencies or gather additional collateral information, and then reconvene.
- 3.3.12 The case conference determination in relation to the allocation of the forensic patient's primary agency must be emailed to the FMHSM via [REDACTED] by the CD CMH.
- 3.3.13 The FMHSM will notify the outcome of the case conference to:
- the Tribunal.
 - the NSW Forensic Patient Flow Committee, Recovery and Reintegration CNC, OPMHS CNC, Metropolitan Regional Manager & Forensic Liaison Officer, the SMSN CSNSW, local nurse managers and nurse unit managers.

3.4 Primary Agency Responsibility

- 3.4.1 When the patient's primary presenting problem changes, then the primary agency should refer the patient to the other agency. If the other agency does not agree to this transfer, then the primary agency should convene a case conference to determine an outcome.
- 3.4.2 Following allocation of primary agency for forensic patient case management there may be occasions when the forensic patient becomes fit for trial. In such situations, responsibility for case management reverts to the Outreach team.
- 3.4.3 Recovery and Reintegration CNC must provide handover to the Outreach team for close monitoring and support through the court process.

3.5 Dispute Resolution

- 3.5.1 If the case conference cannot determine the allocation of primary agency, then the matter should be escalated to the NSW Clinical Director Forensic Mental Health and the Director Statewide Services CSNSW (DSS) for determination.

3.5.2 The final decision regarding the primary agency must be relayed to the relevant stakeholders listed under section 3.3.7.

4. Definitions

Must

Indicates a mandatory action to be complied with.

Should

Indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

5. Related documents

Legislations

[Crimes \(Administration of Sentences\) Act 1999](#)

[Health Administration Act 1982](#)

[Health Records and Information Privacy Act 2002](#)

[Mental Health Act 2007](#)

[Mental Health and Cognitive Impairment Forensic Provisions Act 2020](#)

[Mental Health and Cognitive Impairment Forensic Provisions Regulation 2021](#)

[Mental Health Regulation 2019](#)

Justice Health NSW Policies, Guidelines and Procedures

[1.225](#) Health Assessments in Male and Female Adult Correctional Centres and Police Cells

[1.231](#) Health Problem Notification Form (Adults)

[4.020](#) Health Records (ImpG)

[4.030](#) Requesting and Disclosing Health Information

[6.014](#) Management of Forensic Patients in Correctional Centres

[9.036](#) Guidelines on the Use and Disclosure Health Information

Justice Health NSW Forms

NSW Health Policy Directives and Guidelines

[PD2019 020](#) *Clinical Handover*

[Privacy Manual for Health Information](#)

Other documents and resources

[Offender Classification and Case Management Policy & Procedure Manual](#)

(18.4.6) Public interest inmates and the pre-release leave committee (PRLC)

(20.2.10) External leave programs

(20.7) Escorted external leave programs

(20.8) Section 6 orders

[Operations Procedures Manual Section 1 Boards and Tribunals](#)

[Sentence Administration Procedures for Forensic and Correctional Patient](#)